

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FRANK JONES,)
)
Plaintiff,) 2:07cv951
) Electronic Filing
v.)
)
JEFFREY BEARD, SECRETARY OF) Judge Cercone
CORRECTIONS, et al.,) Magistrate Judge Caiazza
)
Defendants.)

MEMORANDUM ORDER

Frank Jones's civil rights suit was commenced with the filing of a petition to proceed *in forma pauperis* on July 10, 2007. The matter was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation dated May 12, 2008, recommended that the Partial Motion to Dismiss (Doc. 22) filed by the Defendants be granted. The parties were allowed ten days from the date of service to file objections. Service was made on the Plaintiff by First Class United States Mail delivered to his place of incarceration, the State Correctional Institution at Fayette, located in Labelle, Pennsylvania. Objections were due on or before May 29, 2007. None have been filed.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

19th

AND NOW, this 19 day of June, 2008,

IT IS HEREBY ORDERED that the Defendants' Partial Motion to Dismiss (Doc. 22) is GRANTED. Defendants Beard, Wilson, Bitner, Burks, Scire, Cross, Newton, Mann and Varner are hereby dismissed from this case. Further, the Plaintiff's claims pursuant to the Due Process Clause, the Eighth Amendment, the First Amendment, and the Pennsylvania Constitution are also dismissed. The only claims remaining in this case are the Plaintiff's claims that Defendants Bohna, Clelland and Messina retaliated against him for filing an institutional grievance by issuing three separate, fabricated misconducts.

The Report and Recommendation of Magistrate Judge Caiazza, (Doc. 32), dated May 12, 2008, is adopted as the opinion of the court.

DS Cercone

David Stewart Cercone
United States District Judge

cc: Honorable Francis X. Caiazza
United States Magistrate Judge

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